

ORIGINAL

MEMORANDUM
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TO: Docket Control Center

FROM: Ernest G. Johnson
Director
Utilities Division

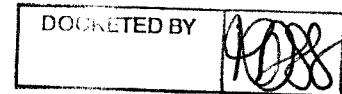
2009 MAY 19 P 4: 04

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Arizona Corporation Commission
DOCKETED

MAY 19 2009

DATE: May 19, 2009



RE: THE LINKS AT COYOTE WASH UTILITIES, LLC - EXTENSION OF TIME TO
COMPLY WITH DECISION NO. 69209 (DOCKET NO. SW-04210A-06-0220)

In Decision No. 69209, dated December 21, 2006, the Arizona Corporation Commission ("Commission") approved the application of The Links at Coyote Wash Utilities, LLC ("Company") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide sewer service in Yuma County.

In Decision No. 69209, the Commission ordered among other things that the Company should:

1. File all Approvals of Construction ("AOC") for the extension area granted; and
2. File a copy of the amended Aquifer Protection Permit ("APP") issued by the Arizona Department of Environmental Quality ("ADEQ") by December 31, 2008.

On March 31, 2009, the Company docketed a request for extension of time to file the APP and the remaining AOC for the Links at Coyote Wash Unit #4. The Company filed the extension request and the AOC for Unit #3 on March 31, 2009, three months past the compliance filing deadline indicated in the Decision. The Company indicated in its application that:

"...the Company has only received an Approval to Construct ("ATC") for the Links at Coyote Wash Unit #4...The Yuma County Department of Development Services has extended the ATC deadline for Unit #4 to August 2010."

The Company requests that the compliance date for the filing of the AOC for Unit #4 be extended to August 31, 2010.

The Company further requested an extension of time to file the APP because ADEQ has requested additional information from the Company on its application. The Company requests that the compliance date for the filing of the APP coincide with the filing of the AOC on August 31, 2010.

As of December 31, 2008, the Company is and remains out of compliance with Decision No. 69209 for failure to file the required AOC for Unit #4 and the APP. Staff seeks both instruction and direction on how to proceed when a Company seeks an extension of time to comply with requirements of a Decision after the due date for compliance has passed. If it is decided that Staff should provide its recommendation in cases where time extension requests are filed after the expiration date, Staff's recommendation in this case is discussed below.

Staff Recommendation

Staff is concerned that development in the area may not occur within the requested deadline. According to the Company's December 19, 2008 compliance filing it stated, "Currently there is no construction occurring in the extension area, and the developer is believed to be experiencing financial problems." On April 24, 2009, the Company provided a letter from the developer indicating a continued need for service. The developer indicated that the Unit IV phase of the development has received the preliminary plat approval and that construction of the sewer facilities is anticipated to begin within the next three years. This is contrary to the request of the Company to extend the deadline to August 31, 2010 for the filing of the AOC for Unit IV and the amended APP.

Staff understands the downturn in the economy has put a damper on much of the development in the state and is concerned with projects being put on hold and the possibility of the development never taking place. However, in light of the continued need and request for service from the developer (see attached), Staff recommends approval of the Company's motion for extension of time to file the AOC for Unit #4 and the amended APP until August 31, 2010.

Staff recommends that no further extensions of time be granted in this case.

EGJ:KDB:lhv

Originator: Kimberly Battista

Attachment

SERVICE LIST FOR:
DOCKET NO.

THE LINKS AT COYOTE WASH, LLC
SW-04210A-06-0220

Mr. Patrick J. Black
Fennemore Craig
3003 North Central Avenue, Ste. 2600
Phoenix, Arizona 85012

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Janice Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
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SENT VIA EMAIL jw@pivotalcompanies.com

April 24, 2009

Jason Williamson
Pivotal Utility Management
6825 E. Tennessee Ave., Suite 54
Denver, CO 80224

Re: Sewer Service to Links at Coyote Wash, Units III and IV

Dear Mr. Williamson:

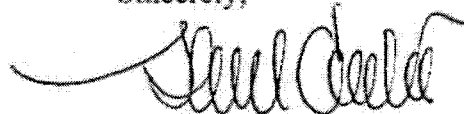
I am writing to provide an update concerning the sewer service requirements for the Links at Coyote Wash development, Units III and IV. Of the 247 lots within Unit III, approximately 90 have been sold and about 20 are currently occupied. The onsite sewer facilities have been built to serve all 247 lots. Due to the economic slowdown, plans to construct the onsite sewer facilities for Unit IV have been delayed. That phase of the development has received the preliminary plat approval, and we anticipate beginning construction of the sewer facilities within the next 3 years.

We understand that the Arizona Corporation Commission is unlikely to grant more than one extension of time for the deadline to file Approvals to Construct for Unit IV facilities. However, we ask that the ACC consider the rural location of the property in Southern Arizona, and the effect that losing the right to receive sewer service will have on future development. In addition, we are confident that, as the only provider of sewer service in the area, the Links at Coyote Wash Utilities will eventually serve the property.

In the event the Unit IV development is changed from its original plat, we would be happy to provide documentation to you and the ACC for review of the changes to the original plans, as it may affect the analysis done in connection with the extension of your service area.

Please call if you have any questions. Thank you.

Sincerely,



Glen T. Curtis, Manager

cc: Patrick Black pblack@fclaw.com

ROC #191241